

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

**TINA SHONTELE FRANKLIN and
TROY R. FRANKLIN,**

PLAINTIFFS,

V.

**INTUITIVE SURGICAL, INC. and
INTUITIVE SURGICAL
OPERATIONS, INC.,**

DEFENDANTS.

CIVIL ACTION NO.: 2:24-cv-45-HSO-BWR

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Intuitive Surgical, Inc. and Intuitive Surgical Operations, Inc., (collectively “Intuitive Entities”), hereby remove this civil action from the Circuit Court of Forrest County, Mississippi, where it is currently pending as Civil Action No. 24-27, to the United States District Court for the Southern District of Mississippi, Eastern Division. In support of the removal, Intuitive Entities state as follows:

INTRODUCTION

1. Plaintiffs Tina Franklin and Troy Franklin (collectively “Plaintiffs”) filed this civil action on February 6, 2024. A copy of the State Court File is attached hereto as Exhibit A pursuant to 28 U.S.C. § 1446(a).

2. The Complaint could have been filed originally in this Court pursuant to 28 U.S.C. § 1332 because this action involves a dispute between parties as to whom

complete diversity of citizenship exists, and with respect to which the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

3. Therefore, this action is removable under 28 U.S.C. § 1441 based upon diversity jurisdiction.

I. The Court has Diversity Jurisdiction over this Civil Action.

4. This Court has diversity jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 because the parties are completely diverse and the amount in controversy exceeds \$75,000.

A. The Parties are completely diverse.

5. Complete diversity of citizenship exists between the parties to this civil action: the plaintiffs are citizens of Mississippi. Compl. ¶ 1. Intuitive Surgical, Inc. is a Delaware corporation, with its principal place of business in California. *See id.* ¶ 2. Intuitive Surgical, Inc. is, therefore, a citizen of Delaware and California. Intuitive Surgical Operations, Inc. is a Delaware corporation, with its principal place of business in California. *See id.* ¶ 3. Intuitive Surgical Operations, Inc. is, therefore, a citizen of Delaware and California.

6. Accordingly, this action involves “citizens of different States.” 28 U.S.C. § 1332(a)(1). Plaintiffs are Mississippi citizens and the Intuitive Entities—the only defendants named in this action—are considered citizens of states other than Mississippi.

7. Further, because the Intuitive Entities are not citizens of the State of Mississippi, there is no bar to removal of this action. *See* 28 U.S.C. § 1441(b)(2).

B. The Amount in Controversy exceeds \$75,000 exclusive of interest and costs.

8. The amount in controversy for diversity removal is satisfied. The Complaint alleges that Mrs. Franklin suffered catastrophic injuries and “substantial damages in the form of medical expenses, currently amounting to approximately \$500,000.00, and lost income, amounting to approximately \$200,000.00.” Compl. at ¶ 28. Additionally, Plaintiffs seek punitive damages for Defendants’ alleged willful misconduct. *Id.* at p. 11.

9. Therefore, this entire case is removable pursuant to 28 U.S.C. § 1441(a).

II. The Other Prerequisites for Removal Are Satisfied.

10. This Notice of Removal is timely filed within 30 days following service of the Complaint which occurred on February 16, 2024. *See* Exhibit A at p. 22.

11. Intuitive Surgical, Inc. and Intuitive Surgical Operations, Inc. are the only defendants named in this action. Consequently, no other party needs to consent to this removal. *See* 28 U.S.C. § 1446(b)(2).

12. A Notice of Filing, with a copy of this Notice of Removal (without exhibits), will be filed promptly with the Circuit Clerk of Forrest County, Mississippi.

13. The Circuit Court of Forrest County is situated within this district and division, making a removal to this Court proper pursuant to 28 U.S.C. § 1441(a).

14. No previous application has been made for the relief requested herein.

15. If any question arises as to the propriety of the removal of this action, the Intuitive Entities request the opportunity to present a brief and oral argument

and to conduct discovery in support of their position that subject matter jurisdiction exists.

WHEREFORE, the Intuitive Entities in this civil action, respectfully request that the above-captioned action now pending in the Circuit Court of Forrest County, Mississippi, be removed to the United States District Court for the Southern District of Mississippi, Eastern Division, and that said district court assume jurisdiction of this action and enter such other and further orders as may be necessary to accomplish the requested removal and promote the ends of justice.

RESPECTFULLY SUBMITTED, this 15th day of March, 2024.

INTUITIVE SURGICAL, INC. AND
INTUITIVE SURGICAL OPERATIONS, INC.

By: s/ Michael C. Williams
Michael C. Williams (MBN 104537)
Bradley Arant Boult Cummings LLP
One Jackson Place
188 East Capitol Street, Suite 1000
Jackson, Mississippi 39201
Telephone: (601) 948-8000
Facsimile: (601) 948-3000
mwilliams@bradley.com
*Counsel for Defendants Intuitive
Surgical, Inc. and Intuitive Surgical
Operations, Inc.*

CERTIFICATE OF SERVICE

I, the undersigned attorney, on behalf of Defendants Intuitive Surgical Operations, Inc. and Intuitive Surgical, Inc. do hereby certify that I have served via the ECF filing system, a true and correct copy of the above and foregoing document to all counsel of record.

This the 15th day of March, 2024.

/s/ Michael C. Williams
Michael C. Williams (MBN 104537)